

ROBERT B. CHAVOUS, INC.

CONTRACT NO. V542C-438

VABCA-4638

VA MEDICAL CENTER
COATESVILLE, PENNSYLVANIA

Timothy S. Kerr, Esq., Elliott, Reihner, Siedzikowski & Egan, P.C., Blue Bell, Pennsylvania, for the Appellant.

Kenneth B. MacKenzie, Esq., Trial Attorney, and *Phillipa L. Anderson, Esq.*, Acting Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

ORDER OF DISMISSAL
(Rule 30)

1. The captioned appeal is from a default termination by the Government. The Board has previously granted a six month suspension of proceedings in this appeal. It did so at the request of the parties so that the Appellant could attempt to involve its surety in negotiating and executing a takeover agreement. We have now been informed that the takeover agreement is close to being signed and that performance should promptly commence. Accordingly, the Board has been asked to extend the suspension for another six months.

2. The Board applauds both parties for their obvious attempts to ameliorate this situation and looks forward to assisting them in resumption of the litigation process or in some form of voluntary ADR at such time that they are ready to continue the appeal process. Of course, successful completion of the project under the auspices of Appellant's surety may lead to settlement of this dispute between the parties without further participation by the Board.

3. Board Rule 30 governs just such a situation as in this appeal. Whenever a suspension "has continued, or may continue, for an inordinate length of time",

it is within the Board's discretion to dismiss the appeal from its docket "without prejudice to restoration when the cause of suspension has been removed." We consider the requested additional six months (with no assurance that even that period will suffice) to be an inordinate length of time. Accordingly, VABCA No. 4638, the appeal of Robert B. Chavous, Inc., is **DISMISSED WITHOUT PREJUDICE** pursuant to Rule 30. Unless either party or the Board acts within three years to reinstate, this appeal shall be deemed to be with prejudice.

IT IS SO ORDERED

DATE: **May 9, 1996**

JAMES K. ROBINSON
Administrative Judge